

REMARKS

Election/R striction

During a phone conversation with the Examiner on September 5, 2002 a provisional election was made with traverse to prosecute the invention of Group II, claims 11-30. In the Office Action of September 13, 2002 a two-way restriction was noted. The Applicant affirms in this response the selection of Group II (Claims 11-30) for response and has cancelled without prejudice the remaining groups of claims. Applicant reserves the right to pursue the cancelled groups of claims through divisional applications.

Claim Rejections - 35 U.S.C. § 102

The Examiner has rejected claims 11-30 under 35 U.S.C. §102(b) as being clearly anticipated by Murthy et al. (WO 00/30169). The Applicant respectfully traverses. Murthy et al. (WO 00/30169) cannot anticipate the Applicant's invention because it is not 35 U.S.C. 102(b) prior art. Murthy et al. (WO 00/30169) is the International Patent for the Applicant's invention that is now in its National Phase in the United States under the Patent Cooperation Treaty (PCT). The prior publication of an application during the International Phase of the PCT process cannot qualify as 35 U.S.C. 102(b) prior art over a subsequent United States National Phase application. This is because a National Phase application claims priority to the International Patent priority date. Therefore, the Applicant respectfully submits that Murthy et al. (WO 00/30169) cannot anticipate the Applicant's current National Phase application for the same invention because both have the same priority date.

If there are any additional charges, please charge Deposit Account No. 02-2666.

Respectfully submitted,

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